

# Inspector General

United States  
Department of Defense



Air Force Network-Centric  
Solutions Contract

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### **Acronyms**

AFFARS	Air Force Federal Acquisition Regulation Supplement
ASD(NII)/CIO	Assistant Secretary of Defense for Networks and Information Integration/DoD Chief Information Officer
CITS	Combat Information Transport System
DFARS	Defense Federal Acquisition Regulation Supplement
ELSG	Electronic Systems Group
FAR	Federal Acquisition Regulation
IA	Information Assurance
NAICS	North American Industry Classification System
NETCENTS	Network-Centric Solutions



INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
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June 29, 2007

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE FOR NETWORKS  
AND INFORMATION INTEGRATION/DOD CHIEF  
INFORMATION OFFICER  
ASSISTANT SECRETARY OF THE AIR FORCE  
(FINANCIAL MANAGEMENT AND COMPTROLLER)

SUBJECT: Report on Air Force Network-Centric Solutions Contract (Report  
No. D-2007-106)

We are providing this report for review and comment. We considered comments from the Office of the Assistant Secretary of the Air Force (Acquisition) when preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Air Force comments were not responsive to Recommendation B.2. As a result of management comments, we revised Recommendation B.1. and deleted Recommendation B.3. Therefore, we request that the Director, 754th Electronic Systems Group provide comments on Recommendations B.1. and B.2. by August 27, 2007.

If possible, please send management comments in electronic format (Adobe Acrobat file only) to [AudACM@dodig.mil](mailto:AudACM@dodig.mil). Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Questions should be directed to Ms. Jacqueline L. Wicecarver at (703) 604-9077 (DSN 664-9077) or Mr. Daniel S. Battitori at (703) 604-9012 (DSN 664-9012). The team members are listed inside the back cover. See Appendix E for the report distribution.

By direction of the Deputy Inspector General for Auditing:

A handwritten signature in black ink, appearing to read "Richard B. Jolliffe", is written over a horizontal line.

Richard B. Jolliffe  
Assistant Inspector General  
Acquisition and Contract Management

## Department of Defense Office of Inspector General

Report No. D-2007-106

June 29, 2007

(Project No. D2006-D000AS-0211.000)

### Air Force Network-Centric Solutions Contract

#### Executive Summary

**Who Should Read This Report and Why?** This report should be read by all who are responsible for and involved in the implementation and execution of indefinite-delivery, indefinite-quantity contracts. The report addresses contracting, information assurance, small business, and oversight issues that require management attention to ensure Government contracts are sufficiently planned and implemented.

**Background.** This report is the first in a series of reports concerning the Air Force Network-Centric Solutions (NETCENTS) contract. The Air Force NETCENTS contract is a multiple-award, indefinite-delivery, indefinite-quantity product, service, and total solutions contract. It has a \$9 billion order ceiling and a base contract term of 3 years with two 1-year options. The contract provides the Air Force, DoD, and other Federal agencies a primary source of networking equipment and system engineering, installation, integration, operations, and maintenance. We initiated this audit based on a request from the Assistant Secretary of Defense for Networks and Information Integration/DoD Chief Information Officer to determine whether the Air Force NETCENTS contract contained the required contracting and information assurance requirements.

The Air Force Chief Information Office issued an action memorandum stating the Air Force is required to use the NETCENTS contract for all networking and information technology products and service requirements.

**Results.** During the audit of the Air Force NETCENTS contract, we identified the following problems.

- The NETCENTS contracts were not complete with respect to information assurance requirements. In addition, we found inconsistencies among the eight NETCENTS prime contracts. As a result, NETCENTS task orders may:
  - not support vital systems during a contingency operation,
  - allow entities controlled by foreign governments access to classified systems and information, and
  - not provide assurance of the physical security of federally controlled facilities and information.

The Director, 754th Electronic Systems Group (ELSG) should issue a modification to correct the contract omissions and inconsistencies and develop an internal control program to ensure contract completeness with respect to information assurance requirements (finding A).

- NETCENTS program officials did not select an appropriate North American Industry Classification System code, bundled contracting requirements without justification, and improperly designed their small business set aside. As a result, the 754th ELSG circumvented small business policies and may not provide all prime contractors with a fair opportunity to bid on task orders. In addition, businesses that would have qualified as small<sup>1</sup> under a more appropriate North American Industry Classification System code had to compete with much larger businesses<sup>2</sup> for the small business awards. The appropriate small businesses lost out on the opportunity to bid on at least \$885 million of NETCENTS task orders.<sup>3</sup> The 754th ELSG officials responsible for NETCENTS should modify the contract to remove the small business asset aside clause or not exercise the last option year for the NETCENTS contract. The 754th ELSG should develop a standardized contract review process that gives assurance that future contracts follow the Federal Acquisition Regulation small business requirements (finding B).
- The NETCENTS central contracting office does not oversee the decentralized task orders. As a result, the NETCENTS program office has no assurance that \$1.36 billion of decentralized task orders follow applicable Federal and DoD policies. The Director, 754th ELSG should develop oversight procedures for decentralized orders in accordance with the Air Force Federal Acquisition Regulation Supplement (finding C).

The 754th ELSG internal controls were not adequate. We identified material internal control weaknesses with contract completeness, oversight procedures, and small business procedures. Implementing the report recommendations should correct the material weaknesses. See the Findings sections of the report for the detailed recommendations.

**Management Comments and Audit Response.** The Associate Deputy Assistant Secretary (Contracting) within the Office of the Secretary of the Air Force (Acquisition) provided comments on behalf of the Director, 754th ELSG. She concurred and took action to correct the contracting omissions and inconsistencies identified in the report. In addition, the Associate Deputy Assistant Secretary agreed to develop oversight procedures to conduct reviews of decentralized orders. However, the Associate Deputy Assistant Secretary (Contracting) did not agree that the NETCENTS contracting officer selected an inappropriate small business code. The Associate Deputy Assistant Secretary (Contracting) nonconcurred with the recommendation that program officials not exercise the last option year of the contract and develop a follow-on contract that met small business and bundling requirements; we revised the recommendation. She stated current processes already reflected the recommended action. We request that the Director, 754th ELSG provide comments on the final report by August 27, 2007. See the Finding sections of the report for a discussion of management comments and the Management Comments section of the report for complete text of the comments.

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<sup>1</sup>A small business for this contract should have less than \$23 million in average annual income over 3 years.

<sup>2</sup>The small businesses awarded NETCENTS contracts had no more than 1,500 employees.

<sup>3</sup>As of September 30, 2006, the four small businesses received a total \$885 million in task order awards.

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## Background

The Network-Centric Solutions (NETCENTS) contract is a multiple-award, indefinite-delivery, indefinite-quantity contract with a \$9 billion ordering ceiling. Four small businesses (Multimax, Telos, Centech, and NCI) and four large businesses (Northrop Grumman, General Dynamics, Lockheed Martin, and Booz Allen Hamilton) were awarded NETCENTS contracts in September 2004. NETCENTS has eight contracts—one for each prime contractor. NETCENTS has a contract base of 3 years with two 1-year options. The purpose of the contract is to provide the Air Force, DoD Components, and other Federal agencies a primary source of networking equipment and system engineering, installation, integration, operations, and maintenance. As of FY 2006, approximately 78 percent of the total task orders were for products, 12 percent for product and service solutions, and 10 percent for services. From September 2004 through September 30, 2006, approximately \$1.64 billion, or 18 percent of the \$9 billion ceiling, was used.

The contract is centrally managed by the 754th Electronic Systems Group (ELSG) at the Maxwell Air Force Base-Gunter Annex in Montgomery, Alabama. However, the Air Force, other DoD Components, and other Federal agencies have decentralized ordering authority. According to the NETCENTS Ordering Guide, the contract states that “decentralized ordering is permitted per the Air Force Federal Acquisition Regulation Supplement (AFFARS) section 5316.505-90, ‘Decentralized Ordering,’ revised June 16, 2006.” As of FY 2006, approximately 92 percent of all task orders issued since contract award were decentralized.

The Air Force Chief Information Officer issued an action memorandum, “Information Technology Purchasing - Network Centric Solutions,” on January 27, 2005. The memorandum stated that the NETCENTS contract is the mandatory source for communications capabilities procured to satisfy Air Force appropriated fund requirements for information technology products and services associated with the design, engineering, integration, installation, and configuration of Air Force networks and networked infrastructure. The memorandum stated that users may obtain a waiver by going through the Air Force major commands.

## Objective

Our overall audit objective was to determine whether the basic contract is consistent with Federal and DoD acquisition and contracting policy, to include information assurance requirements. Specifically, we compared the NETCENTS contract and the program office procedures with policy for information assurance and contracting requirements, contract award, contract fee, and contract oversight. See Appendix A for a discussion of the scope and methodology related to the objective.

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## **Review of Internal Controls**

We identified material internal control weaknesses for the NETCENTS contract and the 754th ELSG as defined by DoD Instruction 5010.40, "Managers' Internal Control (MIC) Procedures," January 4, 2006. DoD Instruction 5010.40 states that internal controls are the organization, policies, and procedures that help program and financial managers achieve results and safeguard the integrity of their programs. NETCENTS program officials did not have the following internal controls for contract administration and management: procedures to ensure necessary information assurance (IA) and contracting requirements were incorporated in the contract, and procedures to ensure decentralized orders were in accordance with DoD and Federal policy. Implementing Recommendations A.2. and C. will improve the current NETCENTS contract and any follow-on NETCENTS contracts. In addition, the 754th ELSG does not have adequate procedures and controls in place to reasonably ensure that contracts comply with Federal small business policies. Implementing Recommendation B.2. will improve the 754th ELSG review process for small business requirements. A copy of the final report will be provided to the senior officials responsible for internal controls for the NETCENTS contract and 754th ELSG small business procedures.

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## A. NETCENTS Contracts

The NETCENTS contracts were not complete or consistent with respect to information assurance and contracting requirements. This occurred because contracting officials did not have internal control procedures to ensure contract completeness. In addition, the Assistant Secretary of Defense for Networks and Information Integration IA review of the NETCENTS contract was inadequate. As a result, the task orders under the NETCENTS contract may:

- not support vital systems during a contingency operation,
- allow entities controlled by foreign governments access to classified systems and information, and
- not provide assurance of the physical security of federally controlled facilities and information.

### NETCENTS Contracts

The NETCENTS contracts were not complete or consistent with respect to IA and contracting requirements.

**Information Assurance and Contracting Requirements.** Five IA requirements were omitted from the NETCENTS contracts. We identified the omissions by comparing the contracts with the policies listed in Appendix B. Table 1 describes the areas of omission and the effect of the omission.

**Table 1. NETCENTS IA Omissions**

<b>Missing Policy/Clause</b>	<b>Description of Requirement</b>	<b>Effect of Omitting Policy/Clause</b>
“Continuation of Essential DoD Contractor Services During Crises” DFARS <sup>1</sup> 207.105(b)(19)(c), DoD Instruction 3020.37	This clause must be included to identify which services have been declared so essential that they must continue during a crisis situation outside the United States.	DoD may not be capable of supporting these systems necessary to contain and manage threats.
“Disclosure of Ownership or Control by a Foreign Government” DFARS 252.209-7002	This clause provides contractor disclosure of any interest a foreign government has in the contractor when that interest constitutes control by a foreign government. In addition, no contract under a national security program may be awarded to an entity controlled by a foreign government if that entity requires access to proscribed information to perform the contract.	Contractors owned by a foreign government could have access to sensitive information, cause substantial harm to U.S. interests and national security, and reveal defense capabilities and weaknesses.
“Protection Against Compromising Emanations” <sup>2</sup> DFARS 252.239-7000, DFARS 239.7103	This clause must be used in solicitations and contracts involving information technology that requires protection against compromising emanations.	DoD systems may not be protected against compromising emanations.
“Personal Identity Verification of Contractor Personnel” FAR <sup>3</sup> 52.204-9, FAR 4.1301	This clause must be placed in solicitations and contracts when contract performance requires contractors to have physical access to a federally controlled facility or access to a Federal information system.	The physical security of federally controlled facilities and Federal information may not be maintained.
“Contractor Information Assurance Certifications” DoD Directive 8570.1, DoD Manual 8570.01-M	Existing contracts must be modified to specify certification requirements.	Certification requirements may not be communicated at the contract level so that contractors can train and provide proper personnel.

**Contract Consistency.** We identified 14 areas of inconsistency in the 8 NETCENTS prime contracts. Program officials stated the contracts differ only in small business requirements. However, we identified inconsistencies in the contracts among the four small businesses and inconsistencies among the four

<sup>1</sup>Defense Federal Acquisition Regulation Supplement.

<sup>2</sup>Compromising emanations are unintentional intelligence-bearing signals, which, if intercepted and analyzed, disclose the national security information transmitted, received, handled, or otherwise processed by any information-processing equipment.

<sup>3</sup>Federal Acquisition Regulation.

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large businesses. Therefore, contractor requirements were not standardized. See Appendix C for the 14 inconsistencies.

## Internal and External Contract Reviews

The contracts were not complete or consistent because program officials did not have internal control procedures to ensure contract completeness. In addition, the Assistant Secretary of Defense for Networks and Information Integration/DoD Chief Information Officer (ASD[NII]/CIO) performed an inadequate IA review of the NETCENTS contract.

**Internal Contract Review.** NETCENTS program officials did not have internal control procedures to ensure contract completeness. The program officials used the Air Force Materiel Command directed contract writing system, ConWrite, and manual input to prepare the NETCENTS contract. Program officials stated that certain clauses were planned for the contract or were in earlier versions of the contract, but those clauses may have been mistakenly deleted during the manual input of the contract. Program officials did not have a process during contract preparation to verify that the contract included the necessary clauses and requirements.

**External Contract Review.** The ASD(NII)/CIO performed an inadequate IA review on the NETCENTS contract. The review did not identify that critical IA requirements were missing from the contract. NETCENTS was subject to the review and coordination process contained in DoD Instruction 5000.2, Enclosure 8, "Acquisition of Services," May 12, 2003. According to DoD Instruction 5000.2, each acquisition of services must have:

- a documented acquisition strategy when changes occur;
- metrics for cost, schedule, and performance; and
- an approved data system for collecting and reporting required data.

As required by DoD Instruction 5000.2, the acquisition strategy was reviewed and is the only document specified by the Instruction to be reviewed. The only IA issue ASD(NII)/CIO officials identified during the review of NETCENTS concerned how the Air Force would enforce the National Security Telecommunications and Information Systems Security Policy No. 11. According to our IA review of the NETCENTS contracts, National Security Telecommunications and Information Systems Security Policy No. 11 was properly included. The ASD(NII)/CIO review did not identify any other IA-related issues. Table 1 shows the IA issues that we identified during our review.

In DoD Inspector General Report No. D-2006-078, "Defense Information Systems Agency Encore II Information Technology Solutions Contract," April 21, 2006, we stated that ASD(NII)/CIO officials' review of only the acquisition strategy was inadequate. For example, the NETCENTS acquisition strategy

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included the proper special clauses section of the contract. However, the NETCENTS contract did not include the special clause that accounts for providing essential contractor support in accordance with the DFARS. Also, the review of the IA portion of the acquisition strategy could not detect IA weaknesses in the overall contracts, such as subcontracting with entities controlled by foreign governments and protection against compromising emanations, because these clauses were not in the acquisition strategy.

Implementing the mediated recommendations from DoD Inspector General Report No. D-2006-078 will correct the ASD(NII)/CIO review issues. Therefore, we are not making recommendations in this report regarding the ASD(NII)/CIO review.

## **Management Actions**

During our site visit to Maxwell Air Force Base-Gunter Annex in July 2006, we briefed 754th ELSG officials that the NETCENTS contracts did not contain necessary IA requirements. In addition, we provided a copy of our analysis regarding contract inconsistencies to the procuring contracting officer of the NETCENTS contract. In a memorandum to the DoD Inspector General on October 4, 2006, the Director, Enterprise Services Division, 754th ELSG stated that the eight contracts would be modified to include the omitted security and information assurance requirements identified by the audit team. Subsequently, the NETCENTS contracting officer issued modification P00009 on October 19, 2006. The modification added contract clauses for continuation of essential contractor services during crises, security, disclosure of ownership or control by the Government of a terrorist country, protection against compromising emanations, certification and accreditation, and information assurance training requirements.

However, modification P00009 did not add DFARS 252.209-7002, "Disclosure of Ownership or Control by a Foreign Government." In addition, Table 1 contains one additional IA requirement that we identified after our site visit. Specifically, FAR 52.204-9, "Personal Identity Verification of Contractor Personnel," should be added to the contract as required by FAR 4.1301.

The Director provided a memorandum of agreement among the 754th ELSG Acquisition Directorate, the 554th Electronic System Wing, and the 42d Security Forces Squadron. The memorandum states 754th Electronic Support Group contracting officers must e-mail all statements of work to the 42d Security Forces Squadron and the 554th Electronic System Wing for review prior to award. The 554th Electronic System Wing and 42d Security Forces Squadron are responsible for reviewing the statements of work to ensure the appropriate security requirements are included. To ensure compliance with the agreement, the Director stated that the Enterprise Services Division staff would review a sampling of contracts issued to assess the security requirements and detail a position within the Enterprise Services Division that will be responsible for security and information assurance on a consistent basis.

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We commend the 754th ELSG officials for taking immediate action to correct most of the IA issues identified and for implementing oversight actions to ensure compliance with IA requirements.

## Conclusion

The NETCENTS contracts did not include all necessary IA requirements. As a result, the NETCENTS task orders may not include the necessary IA requirements. Specifically, the contracts may not support vital systems during a contingency operation, may allow entities controlled by foreign governments access to classified systems and information, and may not maintain the physical security of federally controlled facilities and information. In addition, the contracts lacked consistency in certain areas.

## Recommendations and Management Comments

**Revised Recommendation.** As a result of management comments, we revised Recommendation A.1. We deleted the requirement to add FAR 52.217-2, “Cancellation Under Multi-Year Contracts,” to the contract. We also revised the finding accordingly.

**A. We recommend that the Director, 754th Electronic Systems Group:**

**1. Issue a modification to the eight Network-Centric Solutions contracts that corrects the 14 contract inconsistencies listed in Appendix C. The modification should also add the following clauses to the contract:**

- **DFARS 252.209-7002, “Disclosure of Ownership or Control by a Foreign Government” and**
- **FAR 52.204-9, “Personal Identity Verification of Contractor Personnel,” as required by FAR 4.1301.**

**Assistant Secretary of the Air Force for Acquisition Comments.** The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, concurred with the recommendation. She stated that the recommendation was completed with contract modifications P00009 through P00011 on March 21, 2007. She stated that a few clauses may vary by contract because contractors had the right to waive the clauses in their proposals. She also stated that FAR 52.217-2, “Cancellation Under Multi-Year Contracts,” was not applicable. In addition, the Air Force updated the NETCENTS ordering guide to address information assurance and issued a memorandum on October 2, 2006, making clear the expectation that contracting officers and program officials will comply with all applicable security provisions.

**Audit Response.** Management comments were responsive to the recommendation.

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**2. Develop an internal control program to verify contract completeness with respect to information assurance and contracting requirements.**

**Assistant Secretary of the Air Force for Acquisition Comments.** The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th Electronic Systems Group, concurred with the recommendation. She stated that the recommendation was completed on March 21, 2007. Specifically, she stated that the program office implemented a quarterly clause review where their policy office will send out e-mail notifications of all clause changes or additions. The program office has also agreed to require contractors in their proposal to affirm their compliance with all contractual standards and information assurance requirements. In addition, the Associate Deputy Assistant Secretary (Contracting) stated that all future acquisitions management will require that information assurance requirements are addressed and included in any resulting contracts.

**Audit Response.** Management comments were responsive to the recommendation.

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## **B. Small Business Procedures**

NETCENTS program officials selected an inappropriate North American Industry Classification System (NAICS) code, bundled contracting requirements without justification, and designed an improper small business set aside. This occurred because program officials did not follow FAR procedures and the 754th ELSG does not have adequate procedures and controls in place to reasonably ensure that contracts comply with Federal small business policies. As a result, the 754th ELSG circumvented small business policies and may not provide all prime contractors with a fair opportunity to bid on task orders. In addition, businesses that would have qualified as small under a more appropriate NAICS code had to compete with much larger businesses for the small business awards. Those small businesses lost out on the opportunity to bid on at least \$885 million of NETCENTS task orders.<sup>4</sup>

### **Small Business Procedures**

NETCENTS program officials did not follow FAR small business procedures for:

- selecting the NAICS code,
- bundling a contract, and
- designing the small business set aside.

### **NAICS Code**

NAICS is an industrial classification system used in the United States to employ a unified economic concept to define industries. Under this system, industries are classified on the basis of their production or supply function—establishments using similar raw material inputs, capital equipment, and labor are classified in the same industry. This approach creates homogeneous categories that are better suited for economic analysis.

For the purpose of issuing contract solicitations, the U.S. Government uses the NAICS to:

- classify the products or services being acquired in the industry for a particular contract into one specific classification that represents the greatest percentage of the contract price,
- identify the size standards that the Small Business Administration establishes for that industry, and

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<sup>4</sup>As of September 30, 2006, the four small businesses received a total \$885 million in task order awards.

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- specify the size standards in the solicitations so that offerors can appropriately represent themselves as a small or large business.

## **NETCENTS Selection of the NAICS Code**

NETCENTS program officials did not follow the FAR when they selected the NAICS code. NETCENTS program officials stated that the NAICS code chosen, Wired Telecommunications Carrier, was selected based on the greatest percentage of work projected for NETCENTS and because it was more liberal than other codes in allowing more small businesses to compete. However, the code does not match the greatest percentage of work identified in the original ceiling estimate as required for contracts requiring services and/or products from multiple industries.

FAR 19.102(d), “Size Standards,” states that when acquiring a product or service that could be classified in two or more industries with different size standards, contracting officers must apply the size standard for the service or product accounting for the greatest percentage of the contract price. NETCENTS program officials could not provide documentation of the methodology they used to select the NAICS code.

NETCENTS program officials stated that telephony requirements for the Consolidated Voice Switching System accounted for the greatest percentage of work. However, a different NETCENTS program official provided an original ceiling estimate with telephony requirements accounting for approximately 15.5 percent of the ceiling and the greatest percentage of work going to the Combat Information Transport System (CITS) at 63.1 percent.

CITS is the primary Air Force program to install complete, secure fiber optic infrastructure supporting critical fixed-based missions. CITS modernizes network defenses, network management, and fixed network information transport by replacing maintenance-intensive equipment, replacing or upgrading voice switching systems, providing network defense and management tools, and increasing the capacity of saturated information transmission systems.

Based on the description of CITS, we believe the NAICS code Wired Telecommunications Carrier is not appropriate. This code does not cover network modernization, equipment upgrade and replacement, providing network defense and management tools, increasing transmission system capacity, installing fiber, or performing work at sites or installations. The Wired Telecommunications Carrier classification includes only operating and maintaining facilities that provide communications and furnishing communications by using their own facilities.

## **Appropriate Small Business**

The NAICS manual contains other codes that better describe the products and services being acquired under the NETCENTS contract. For example, the Air

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Force Chief Information Officer issued a mandatory use memorandum on Information Technology Purchasing which stated that the NETCENTS contract was awarded to provide Air Force customers a primary source for acquiring voice, video, and communications hardware and software. Further, the NETCENTS statement of work stated that the contract was intended as a primary source for obtaining system engineering, installation and integration for network, telephony, and security solutions. NAICS section 54151, “Computer Systems Design and Related Services,” is for businesses primarily engaged in providing expertise in the field of information technology through one or more of the following activities:

- writing, modifying, testing, and supporting software to meet the needs of a particular customer;
- planning and designing computer systems that integrate computer hardware, software, and communication technologies;
- on-site management and operation of clients’ computer systems and/or data processing facilities; and
- other professional and technical computer-related advice and services.

A code within this section would best represent the industry accounting for the greatest percentage of the NETCENTS contract. The following four codes are contained in NAICS subsection 541 under section 54151:

- 541511, “Custom Computer Programming Services”;
- 541512, “Computer Systems Design Services”;
- 541513, “Computer Facilities Management Services”; and
- 541519, “Other Computer Related Services.”

The small business size standards associated with each of the above NAICS codes limits the average total annual income of a qualifying small business to \$23 million. Therefore, according to the Small Business Administration, any business that averages over the past 3 years more than \$23 million in total income would not qualify as a small business under these NAICS codes.

In contrast, the NAICS code selected by the contracting officials for the NETCENTS contract had an associated small business size standard that limited qualifying small businesses to 1,500 employees. Because officials assigned NAICS code 517110 to the NETCENTS solicitation, contractors were able to compete for small business reserves with no regard to income limitations. Thus, the following four contractors were selected for the initial NETCENTS small business award:

- 
- Centech Group with approximately 300 employees and 2005 revenue of approximately \$40 million,<sup>5</sup>
  - Multimax with approximately 300 employees and 2004 revenue of approximately \$58 million,
  - NCI with approximately 1,400 employees and 2004 revenue of approximately \$171 million, and
  - Telos Corporation with approximately 434 employees and 2004 revenue of approximately \$117 million.

NAICS code 54151 best describes the goods and services to be acquired under the NETCENTS contract. Therefore, the small business definition for code 54151 should have been applied to the NETCENTS contract. However, because contracting officials assigned a NAICS code that describes an industry that does not represent the greatest percentage of work for the NETCENTS contract, businesses with annual incomes that far exceeded \$23 million were inappropriately awarded small business prime contracts.

## **Bundling a Contract**

FAR 2.101, “Definitions,” states that bundling is a consolidation of two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern due to:

- the diversity, size, or specialized nature of the elements of the performance specified;
- the aggregate dollar value of the anticipated award;
- the geographical dispersion of the contract performance sites; or
- any combination of the factors above.

According to a January 2002 memorandum for service acquisition executives and the directors of the Defense agencies, each proposed contract award must be evaluated against the FAR criteria for bundled requirements. In addition, the memorandum states that to proceed with a bundled contract, there must be measurably substantial benefits as defined in the FAR. The memorandum further states that if substantial bundling occurs, the agency must quantify the benefits and explain how they would be measurably substantial. FAR 7.107(e), “Additional Requirements for Acquisitions Involving Bundling,” states substantial bundling is any that results in a contract or order that meets the \$7 million threshold required by DoD. Additionally, FAR 7.104(d)(1) states that:

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<sup>5</sup>Centech’s annual revenue for 2004 could not be obtained because it was a privately held company.

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The planner shall coordinate the acquisition plan or strategy with the cognizant small business specialist when the strategy contemplates an acquisition meeting the dollar amounts in paragraph (d)(2) of this section unless the contract or order is entirely reserved or set aside for small business under Part 19. The small business specialist shall notify the agency Office of Small and Disadvantaged Business Utilization if the strategy involves contract bundling that is unnecessary, unjustified, or not identified as bundled by the agency. If the strategy involves substantial bundling, the small business specialist shall assist in identifying alternative strategies that would reduce or minimize the scope of the bundling.

The NETCENTS program officials bundled the contract without justification. A NETCENTS program official did not believe that the contract was bundled because the contract consolidates various contracts that were only performed by large businesses and reserved a portion for small business. The following table breaks down the bundling definition from FAR Subpart 2.1 and compares it with the NETCENTS contract.

**Table 2. NETCENTS Bundling Analysis**

<b>Breakdown of FAR Definition of Bundling</b>	<b>NETCENTS Description</b>
Contract is a consolidation of two or more requirements for supplies and services	According to the scope of NETCENTS, requirements for hardware, information technology services, software, and telecommunications have been consolidated.
Contract was previously provided or performed under separate smaller contracts	Program officials from the Office of the Air Force Chief Information Officer stated one obstacle to standardization for NETCENTS is often that the Air Force bases use small local contractors for information technology services. Therefore, each base may have had separate smaller contracts.
Consolidation of requirements into a solicitation for a single contract	NETCENTS is an indefinite-delivery, indefinite-quantity contract which is considered a single contract for this definition.
Not suitable for small business award due to the diversity, size, or specialized nature of the elements of the performance specified	The NETCENTS contract is to provide the Air Force, DoD Components, and other Federal agencies a primary source of networking equipment and system engineering, installation, integration, operations, and maintenance.
Not suitable for small business award because of the aggregate dollar value of the anticipated award	NETCENTS has a \$9 billion ceiling with a 3-year term with two 1-year option periods.
Not suitable for small business award because the contract performance sites are geographically dispersed	NETCENTS is a worldwide contract.

Based on our bundling analysis, the NETCENTS contract is bundled and unsuitable for a contract award to small businesses.

Neither the NETCENTS Acquisition Strategy nor the Information Technology Acquisition Paper mentions bundling. Requirements for analyzing bundling were incorporated in the FAR on October 20, 2003. NETCENTS was awarded in September 2004. Therefore, the FAR requirement for performing a bundling analysis was in effect before the NETCENTS contract award.

## **Small Business Set Asides**

NETCENTS program officials improperly implemented small business set aside procedures. According to FAR Subpart 19.5, "Set asides for Small Business," the contracting officer must set aside an individual acquisition or class of acquisitions

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for competition among small businesses. However, NETCENTS program officials did not segment the NETCENTS contract to allow for small business prime contractors to compete in an individual class of requirements. Rather, NETCENTS program officials required that 20 percent of all task order dollars awarded go to small business concerns. The NETCENTS contract clause for the small business set aside states:

The Contracting Officer will provide each contract holder fair opportunity to be considered for each order exceeding \$2,500 issued under this contract, except as provided in FAR 16.505(b)(2). Contract holder business size may be a determining factor in the fair opportunity to be considered process. Accordingly, the ordering activity may offer any requirement to the small business contract holders only. However, each year, a minimum of 20% of the total delivery order dollars for that year will be competed as a small business set aside exclusively among the small businesses that have been awarded NETCENTS ordering contracts as a result of this solicitation. If only one small business was awarded a NETCENTS ordering contract, that one small business will receive 20% of the total annual delivery order dollars. The small business firm(s) that hold a NETCENTS ordering contract also will have a fair opportunity to participate in the open competition for the remaining 80% of total delivery order dollars each year. An additional 20% of the total dollars in orders awarded to other than small businesses must be subcontracted to small businesses each year.

According to FAR 16.505, "Ordering," the contracting officer must provide each awardee a fair opportunity to be considered for each order exceeding \$2,500 issued under multiple delivery-order contracts or multiple task-order contracts. In addition, FAR 16.505 states the contracting officer may exercise broad discretion in developing appropriate order placement procedures; however, contracting officers may not use any method (such as allocation or designation of any preferred awardee) that would not result in fair consideration being given to all awardees prior to placing each order. However, NETCENTS program officials allocated 20 percent of total contract dollars to small business prime contractors. Therefore, the NETCENTS small business set aside does not provide a fair opportunity to all prime contractors.

## **754th ELSG Review and Coordination**

The 754th ELSG does not have adequate procedures and controls to reasonably ensure that contracts comply with Federal small business policies. The review by the 754th ELSG Small Business representative did not detect the issues identified in the previous sections because the program office did not document the reason why they chose the code they chose, did not submit an acquisition strategy to small business representatives, did not perform a bundling analysis, and did not perform a proper small business set aside. During the audit, we identified that the contract had the wrong NAICS code, was bundled, and inappropriately implemented the small business set aside. In addition, the 754th ELSG and Small Business Administration did not have standard procedures and adequate documentation for coordination.

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An official from the Small Business Administration stated he was not aware of any instructions or policies on how to coordinate contracts with the Small Business Administration nor were there specific requirements that the Small Business Administration reviews. The Small Business Administration official who reviewed the NETCENTS contract relied mostly on conversations with NETCENTS program officials and Air Force Small Business officials. The Small Business Administration official did not ask for or receive documentation to support how the NAICS code was chosen.

## Conclusion

The 754th ELSG did not comply with the FAR when they bundled the contract and picked the incorrect NAICS code. The businesses awarded the NETCENTS prime contracts that were considered small businesses would not have qualified as small businesses for the NETCENTS contract if the FAR requirements for choosing the appropriate NAICS code were followed. Therefore, businesses that would have qualified as small under a more appropriate NAICS code had to compete with much larger businesses for the small business awards. As of the end of FY 2006, those small businesses lost out on the opportunity to bid on at least \$885 million of NETCENTS task orders.

The NETCENTS program officials did not properly implement small business set aside procedures; therefore, all prime contractors may not have a fair opportunity to bid on task orders. FAR 16.505 states the contracting officer may exercise broad discretion in developing appropriate order placement procedures; however, contracting officers may not use any method (such as allocation or designation of any preferred awardee) that would not result in fair consideration being given to all awardees prior to placing each order. NETCENTS program officials improperly allocated 20 percent of total contract dollars to small business prime contractors.

## Management Comments on the Finding and Audit Response

**Assistant Secretary of the Air Force for Acquisition Comments on NAICS Code.** The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, nonconcurrent that an incorrect NAICS code was selected. She stated that the NAICS code was selected in accordance with FAR 19.303, "Determining NAICS Codes and Size Standards," and was suggested by the Small Business representative at Electronic Systems Command to maximize participation of small business in the NETCENTS contract. She stated that the small business community reacted positively to the NAICS code selection and no protests were filed against the selection. In addition, the Small Business Administration, Air Force Small Business, and Electronic Systems Command Small Business agreed with the selection.

The Associate Deputy Assistant Secretary (Contracting) stated that the principal purpose of the NETCENTS contract is for the contractor to engineer technical

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solutions to the Government's communication requirements, acquire the equipment and materials, and then install and test these wired communication systems. In this regard, she believed that the Wired Telecommunications Carriers code was appropriate. In making the determination, the Contracting Officer and Electronic Systems Command Small Business Office used a Small Business Administration (SBA) Notice. This notice was issued in July 1989 and subsequently expired in February 1990. The Associate Deputy Assistant Secretary (Contracting) stated that NETCENTS was exactly what was described in the Small Business Administration notice. Further, the Associate Deputy Assistant Secretary (Contracting) believed that the ceiling estimate that the audit team used did not include Consolidated Voice Switching System requirements and that the auditor assessment of small business dollars lost was inaccurate. Additionally, the Associate Deputy Assistant Secretary (Contracting) stated that the Air Force Small Business office has reaffirmed that the Wired Telecommunications Carriers code was appropriate.

In a follow-up conversation we had with 754th ELSG officials, the officials stated that the code was not picked solely for maximizing small business participation, as stated in their written comments. We requested documentation of how the NAICS code was selected in accordance with FAR criteria. In response, the 754th ELSG officials provided a memorandum that stated the NAICS code was selected in accordance with FAR criteria and that the code was coordinated with the appropriate small business organizations. However, documentation was not provided to support their statement.

**Audit Response.** We agree that FAR 19.303 assigns the contracting officer the responsibility to determine the appropriate NAICS code and size standard. However, the FAR does not allow contracting officers to choose the largest size standard and code for the purpose of maximizing small business participation. Further, although small businesses did not protest the NAICS code and various small business offices agreed with the selection, that does not ensure that the contracting officer complied with the FAR. Additionally, it appears that the contracting officer did not consider FAR 19.102, "Size Standards," which states that when acquiring a service or product that could be classified in more than one industry, the contracting officer must apply the size standard that accounts for the greatest percentage of work. We requested the analysis that the program office used to determine the greatest percentage of the work but we have not received an analysis.

According to the ceiling estimate provided by program officials (which included the Consolidated Voice Switching System requirements), the CITS program accounted for the greatest percentage (63.1 percent) of the work planned for NETCENTS. Although CITS does have telecommunication requirements, NAICS code 517110, Wired Telecommunications Carriers, is not the appropriate code. According to the 2002 definition, Wired Telecommunications Carriers either operate and maintain transmission facilities or provide communications using their own facilities. CITS does not require contractors to do either. The purpose of CITS is to field the network defense and network management tools, along with fixed network infrastructure that supports the Air Force component of the Global Information Grid. CITS modernizes the network defense, network management, and fixed network information transport by replacing

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maintenance-intensive equipment, replacing or upgrading voice switching systems, providing network defense and management tools, and increasing the capacity of saturated information transmission systems. CITS is also the primary Air Force program to install complete secure fiber optic infrastructure supporting critical fixed-based missions.

We do not believe the contracting officer should have relied on a Small Business Administration Notice that expired 14 years before the NETCENTS contract was awarded. The 2002 definition of wired telecommunications carriers is different from the 1990 definition. It is important for contracting officers to use current publications in determining which NAICS code to select.

The NAICS code selected for NETCENTS is inappropriate. The contracting officer used an outdated definition and did not consider the “greatest percentage of work” as required by the FAR. Therefore, we request that the Associate Deputy Assistant Secretary (Contracting) reconsider her position on using NAICS code 517110 for NETCENTS and provide additional comments to the final report.

**Assistant Secretary of the Air Force for Acquisition Comments on Bundling.**

The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, concurred that the contract was bundled in light of the current environment; however, she nonconcurred with the bundling finding in light of the environment in which NETCENTS was competed. She stated that awards were made to four small businesses and those businesses have competed successfully with 50 percent of all dollars going to the small businesses. The Associate Deputy Assistant Secretary (Contracting) stated that had the contracting officer selected a different code with a smaller size standard then the bundling concern would be stronger; however, as a result of larger “small business” participation, larger projects with more dollars have been awarded to small businesses. In addition, she cited a Government Accountability Office case that found that multiple-award indefinite-delivery/indefinite-quantity contracts that included small businesses are not bundled if those small businesses can compete with large businesses even if smaller small businesses could not. Lastly, she stated that at the time NETCENTS was awarded, the environment and interpretations on bundling supported the conclusion that NETCENTS was not bundled.

**Audit Response.** The audit team does not believe that the environment has changed since NETCENTS was awarded because the policies on bundling have not changed. In addition, the Government Accountability Office case mentioned by the Associate Deputy Assistant Secretary (Contracting) is not applicable to this situation. In the cited case, the appropriate small business size standard was selected, therefore, there was no bundling. As stated in our report, the NETCENTS program officials did not follow FAR requirements for choosing the appropriate small business size standard. We believe that because NETCENTS consolidated requirements, it was not suitable for award to appropriate small businesses (businesses that average less than \$23 million in total annual income). As a result, the contracting officer selected a more liberal NAICS code in order to maintain small business participation. As stated in the Associate Deputy Assistant Secretary (Contracting) comments on NAICS code selection, Wired

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Telecommunications Carrier was selected because NETCENTS officials wanted to maximize small business participation. Because the contracting officer chose NAICS 517110, contractors were able to compete for small business reserves with no regard to income limitations, resulting in awards to “larger” small businesses. Those “larger” small businesses would not have been able to compete as a small business if a more appropriate NAICS code was selected.

The policies on bundling have not changed since NETCENTS was awarded. In addition, the contracting officer did not consider the “greatest percentage of work” as required by the FAR when selecting the NAICS code. Therefore, we request the Associate Deputy Assistant Secretary (Contracting) reconsider her position and provide additional comments to the final report.

**Assistant Secretary of the Air Force for Acquisition Comments on Small Business Set aside.** The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, concurred that the set aside was improper in light of the current environment. However, she nonconcurred with the set aside finding because the environment in which NETCENTS was competed. She stated that the 20-percent reservation was included at the recommendation of the Air Force and the offices of the DoD Chief Information Officer and Under Secretary of Defense for Acquisition, Technology, and Logistics. She acknowledged that reservation of contracts has been under considerable legal scrutiny and that there is no commonly recognized authority for contract reservations. In addition, the Competition in Contracting Act requires full and open competition in federal contracting unless exempted under specific statutory authority. The Associate Deputy Assistant Secretary (Contracting) believed that the Small Business Act provided that statutory authority because it appears to contemplate the use of alternative small business preference strategies. She stated that the Small Business Act states that a fair proportion of total sales of Government property must be made to small business concerns. The Associate Deputy Assistant Secretary (Contracting) stated that in the case of NETCENTS, the small business reservation became an effective minimum requirement and thus an exception to fair opportunity. In addition, she stated that the set aside has not been enforced because of the success of the small businesses resulting in a fair opportunity for all eight offerors on each task.

**Audit Response.** We disagree that the Small Business Act language promotes alternative small preference strategies such as a 20-percent set aside. The Small Business Act states that a fair proportion of sales are placed with small business concerns; this can be accomplished through the set aside procedures identified in the FAR. FAR Subpart 19.5, “Set asides for Small Business,” states that the contracting officer must set aside an individual acquisition or class of acquisitions for competition among small businesses. The NETCENTS set aside is not a complete set aside, nor is the contract segmented into classes for set aside to small businesses. Further, the NETCENTS set aside does not provide fair opportunity to all eight contractors. In order to satisfy the 20-percent set aside, the NETCENTS contract allows activities to compete orders among only the four small businesses. Additionally, the set aside cannot be considered a minimum guarantee because each contractor was already given a \$50,000 minimum guarantee. Finally, the audit team does not believe that the environment has changed since NETCENTS has been awarded because the policies on set asides

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have not changed. The NETCENTS set aside is not in accordance with the FAR. Therefore, we request that the Associate Deputy Assistant Secretary (Contracting) reconsider her position and provide additional comments to the final report.

## **Recommendations, Management Comments, and Audit Response**

**Revised and Deleted Recommendations.** Based on management comments, we revised Recommendation B.1. to incorporate Recommendation B.3., and we deleted Recommendation B.3. We also deleted Recommendation parts B.1.a. through B.1.c., which referred to the follow-on NETCENTS contract.

**B.1. We recommend the Director, 754th Electronic Systems Group, in coordination with the 754th Electronic Systems Group Small Business Representative, modify the contract to remove the small business set aside clause or not exercise the last option year for the Network-Centric Solutions contract.**

**Assistant Secretary of the Air Force for Acquisition Comments.** The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, concurred with the intent of not allowing task orders to be competed only among the small businesses. However, she stated that removing the small business set aside clause would violate the acquisition strategy and the terms and conditions of the NETCENTS contracts, which could negatively impact the prime contractors. In a follow-up conversation we had with the 754th ELSG officials, the officials stated that a control would be added to the NETCENTS portal that would require decentralized contracting officers to upload their justification for using the small business set aside option prior to being able to proceed. The decentralized contracting officers would not be allowed to use the NETCENTS set aside as their justification.

The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, nonconcurred with the recommendation that officials not exercise the last option year on the contract. She stated that current processes already reflect the recommended corrections. She also stated that the Air Force decision to exercise or not exercise each option will be consistent with FAR 17.207, "Exercise of Options." The Air Force will consider all factors related to exercising options, to include a continued commitment to fair opportunity to compete all eight primes at the task order level. In addition, she stated that B.1.a. through B.1.c. would not be feasible or applicable because the contract was already awarded.

**Audit Response.** The comments from the Associate Deputy Assistant Secretary (Contracting) were not responsive. The small business set aside clause can be removed as a bi-lateral change. The updating of the portal would not correct the set aside and NAICS code selection. The current processes did not result in the selection of the appropriate NAICS code, ensure that the contract is not bundled, or properly set aside acquisitions for small businesses. Therefore, we believe that the small business clause be removed or the contract stopped. We request the

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Associate Deputy Assistant Secretary (Contracting) reconsider her position and provide additional comments to the final report.

**B.2. We recommend that the Director, 754th Electronic Systems Group develop a standardized contract review process that gives assurance that contracts comply with Federal Acquisition Regulation small business requirements.**

**Assistant Secretary of the Air Force for Acquisition Comments.** The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, concurred. She plans to implement a standardized review process to ensure orders comply with the FAR and small business regulations by April 2007.

**Audit Response.** The comments provided by the Associate Deputy Assistant Secretary (Contracting) were partially responsive. Our intent was that 754th ELSG would develop a contract review process to ensure future indefinite-delivery, indefinite-quantity contracts, not just orders, complied with small business requirements. We request that the Associate Deputy Assistant Secretary (Contracting) provide additional comments on this recommendation.

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## **C. Decentralized Task Order Oversight**

The NETCENTS program officials did not provide adequate oversight of the decentralized task orders. This occurred because NETCENTS program officials did not establish an adequate oversight program in accordance with the Air Force Federal Acquisition Regulation Supplement (AFFARS). As a result, the NETCENTS program office cannot verify that \$1.25 billion of decentralized task orders (as of September 2006) followed applicable Federal and DoD policies.

### **Air Force Federal Acquisition Regulation Supplement Policy**

AFFARS section 5316.505-90, “Decentralized Ordering,” states:

For contracts that authorize decentralized ordering (that is, ordering by a contracting office at any other location), the contracting officer with the overall responsibility for the contract shall:

- (a) Ensure that adequate control procedures are in place before any orders are authorized; and
- (b) Exercise oversight of decentralized ordering through the period of performance under the contract to ensure that the procedures are followed.

### **Control Procedures Established Before Ordering**

NETCENTS program officials stated that their controls were the decentralized contracting officer, the ordering guide, and the contracts. The ordering guide did not contain control procedures beyond appointing the decentralized contracting officer as the official responsible for the task order. The contract contained two additional controls. The contract stated:

- a decentralized contracting officer must obtain written approval for all task orders valued at \$100 million or more, and
- only the procuring contracting officer located at the NETCENTS centralized ordering office is allowed to modify the basic NETCENTS contracts.

We did not evaluate the adequacy of the control procedures for specific task orders. Those control procedures will be evaluated during the audit of the NETCENTS task orders.

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## Overseeing Control Procedures for Decentralized Orders

The primary NETCENTS control procedure in place was to have a contracting officer execute the required contracting functions at the decentralized level. However, program officials stated the central NETCENTS contracting office does not oversee the decentralized contracting officers because decentralized contracting officers are warranted and hold a high amount of integrity to ensure their work is accurate. As a result, the NETCENTS program office is not providing oversight in accordance with AFFARS section 5316.505-90(b).

## Task Order Assurance

The NETCENTS program office does not ensure that the decentralized task orders are within the scope of the contract and that the task orders follow applicable DoD and Federal policies. As of the end of FY 2006, approximately 3,359 of the 3,649 task orders and \$1.25 billion of the \$1.64 billion total task order dollars have been issued through the decentralized ordering process. Therefore, in the best interest of DoD and the U.S. Government, NETCENTS program officials should develop procedures to oversee the decentralized task orders.

## Recommendation and Management Comments

**C. We recommend that the Director, 754th Electronic Systems Group develop written oversight procedures for decentralized orders in accordance with the Air Force Federal Acquisition Regulation Supplement.**

**Assistant Secretary of the Air Force for Acquisition Comments.** The Associate Deputy Assistant Secretary (Contracting), commenting for the Director, 754th ELSG, concurred with the recommendation. She stated that the recommendation will be completed in April 2007. Specifically, she stated that the 754th ELSG has developed oversight procedures for the NETCENTS program office to conduct reviews of randomly selected decentralized orders. The procedures are designed to determine whether the decentralized orders are in scope of the contract and follow applicable DoD and Federal policies to include an assessment of compliance with security and contract file content requirements. She stated that the process will include task order reviews for FY 2007 through the end of the NETCENTS contract with 100 percent review of request for proposal awards. The reviews will consist of prescreening and incorporating summary order information into a preestablished tracking methodology whereby scope, task order structure, and conformance to contract terms and conditions can be reviewed and documented.

**Audit Response.** Management comments were responsive to the recommendation.

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## Appendix A. Scope and Methodology

We conducted this performance audit from May 2006 through February 2007 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This is the first of a series of audits regarding the NETCENTS contract.

To evaluate whether the NETCENTS contract complied with the appropriate Federal and DoD criteria, we reviewed Federal and DoD acquisition requirements, DoD Directives, and DoD Instructions relating to contracting and IA (see Appendix B for a detailed list).

Before the site visit to the program office, we interviewed various DoD and Air Force personnel and searched the Internet to obtain applicable IA and contracting policies. We then compared the NETCENTS contract with applicable criteria. During our site visit, we interviewed NETCENTS program officials to determine how the contract was awarded and monitored, and we discussed the deficiencies found with the contract. After our site visit, we reviewed the program office's corrective actions for the NETCENTS contract. We also determined whether contract award and monitoring was in accordance with Federal, DoD, and Air Force policies.

We conducted this audit at various U.S. Military and civilian personnel installations. Specifically, we performed a site visit and interviewed personnel responsible for the NETCENTS contract at the 754th ELSG at Gunter Air Force Annex in Montgomery, Alabama. In addition, we interviewed personnel from the offices of the Assistant Secretary of Defense for Networks and Information Integration/DoD Chief Information Officer; Secretary of the Air Force/Chief of Warfighting Integration and Chief Information Officer; Secretary of the Air Force for Acquisition; Assistant Deputy Under Secretary of Defense (Strategic Sourcing and Acquisition Processes); and Defense Procurement and Acquisition Policy.

**Use of Computer-Processed Data.** We did not use computer-processed data to perform this audit.

**Government Accountability Office High-Risk Area.** The Government Accountability Office has identified several high-risk areas in DoD. This report provides coverage of the high-risk area relating to protecting the Federal Government's information-sharing mechanisms and the Nation's critical infrastructure, contract management, and management of interagency contracting.

### Prior Coverage

No prior coverage has been conducted on NETCENTS during the last 5 years.

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## **Appendix B. Federal and DoD Information Assurance and Contracting Laws, Directives, and Instructions**

**Information Assurance.** We reviewed the following laws, directives, and instructions relating to information assurance:

- National Security Telecommunications and Information Systems Security Policy No. 11, “National Policy Governing the Acquisition of Information Assurance (IA) and IA-Enabled Information Technology (IT) Products,” revised June 2003;
- DoD Directive 4630.5, “Interoperability and Supportability of Information Technology (IT) and National Security Systems (NSS),” May 5, 2004;
- DoD Directive 5000.1, “The Defense Acquisition System,” revised November 24, 2003;
- DoD Directive 8100.1, “Global Information Grid (GIG) Overarching Policy,” September 19, 2002;
- DoD Directive 8320.2, “Data Sharing in a Net-Centric Department of Defense,” December 2, 2004;
- DoD Directive 8500.1, “Information Assurance (IA),” revised November 21, 2003;
- DoD Directive 8570.1, “Information Assurance Training, Certification, and Workforce Management,” August 15, 2004;
- DoD Instruction 3020.37, “Continuation of Essential DoD Contractor Services During Crisis,” revised January 1996;
- DoD Instruction 4630.8, “Procedures for Interoperability and Supportability of Information Technology (IT) and National Security Systems (NSS),” June 30, 2004;
- DoD Instruction 5000.2, “Operation of the Defense Acquisition System,” May 12, 2003;
- DoD Instruction 8500.2, “Information Assurance (IA) Implementation,” February 6, 2003;
- DoD Instruction 8580.1, “Information Assurance (IA) in the Defense Acquisition System,” July 9, 2004; and

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- DoD Manual Publication 8570.01-M, “Information Assurance Workforce Improvement Program,” December 19, 2005.

**Contracting.** We reviewed the following regulations relating to contracting:

- FAR, May 23, 2006;
- DFARS, December 20, 2005; and
- AFFARS, May 15, 2006.

## Appendix C. Contract Consistency

The following table identifies the inconsistent areas of the contracts. We used bold font to show data elements that were not consistent among all small businesses or among all large businesses. A “yes” indicates that the applicable clause or contract section was placed in the contract for that particular contractor. This table is intended to show only the inconsistencies in the contracts; it does not indicate which elements should be included.

Inconsistencies	Small Businesses				Large Businesses			
	Telos	MultiMax	NCI	Centech	General Dynamics	Booz Allen Hamilton	Lockheed Martin	Northrop Grumman
FAR 52.211-11, “Liquidated Damages – Supplies, Services, or Research and Development”	Yes	Yes	Yes	Yes	<b>Yes</b>	No	No	No
FAR 52.215-17, “Waiver of Facilities Capital Cost of Money”	Yes	Yes	Yes	Yes	Yes	<b>No</b>	<b>No</b>	Yes
FAR 52.216-17, “Incentive Price Revision – Successive Targets”	<b>No</b>	Yes	Yes	Yes	No	No	No	No
FAR 52.219-25 “Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting”	No	<b>Yes</b>	No	No	Yes	Yes	Yes	Yes
FAR 52.222-15, “Certification of Eligibility”	Yes	Yes	Yes	Yes	Yes	Yes	Yes	<b>No</b>
FAR 52.222-30, “Davis-Bacon Act – Price Adjustment (None or Separately Specific Method)”	Yes	Yes	Yes	Yes	<b>No</b>	Yes	Yes	Yes
FAR 52.222-48, “Exemption from Application of Service Contract Act Provisions – Contractor Certification”	Yes	Yes	<b>No</b>	Yes	Yes	Yes	Yes	Yes

DFARS 252.227-7022, "Government Rights (Unlimited)"	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
FAR 52.232-07, "Payments Under Time and Materials and Labor Hour Contracts"	Yes	No	No	No	No	Yes	No	No
FAR 52.232-30, "Installment Payments for Commercial Items"	Yes	No						
Air Force Material Command FARS 5352.235-9001, "Key Positions and Minimum Qualifications"	No	Yes						
FAR 52.244-06, "Subcontracts for Commercial Items," December 2004	No	Yes						
NETCENTS Contract Section B031, "Contract Type: Fixed-Price Incentive – Successive Target"	No	Yes	Yes	Yes	No	No	No	No
NETCENTS Contract Section F001, "Option Contract Line Item Number Performance Period(s)"	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes

\* Each contractor with a "No" answer has FAR 52.232-07 Alternate I and Alternate II clauses in their contracts; however, the basic FAR 52.232-07 clause is missing.

## Appendix D. Other Matter of Interest

### NETCENTS Internal Ceiling Estimate

The NETCENTS program office designed an internal ceiling estimate for the NETCENTS contract that was ultimately not used to estimate the final contract ceiling. Therefore, the final ceiling price was overstated by \$4.5 billion in the NETCENTS contract.

**NETCENTS Contract Ceiling Estimate.** According to FAR 16.504, “Indefinite-Quantity Contracts,” revised February 2, 2006, contract maximums, also known as ceilings, should be reasonable and based on market research, trends on recent contracts for similar supplies or services, a survey of potential users, or any other rational basis.

A NETCENTS program official stated the internal ceiling estimate was based on the Unified Local Area Network Architecture (known as ULANA) contract historical data, the CITS budget, Consolidated Voice Switching System requirements (based on historical data), surveys from the major commands, potential use of NETCENTS by the other Services, and other potential users. We believe the internal ceiling estimate followed FAR requirements because it was based on market research, surveys, and trend analysis. The internal ceiling estimate of \$6 billion was based on a contract term of 7 fiscal years. Figure D-1 illustrates how the estimate may be used to derive contract ceilings for 5- and 10-year terms.

<u>Fiscal Year</u>	<u>Project Spending (in millions)</u>	
2004	\$374	
2005	676	
2006	858	
2007	884	
2008	1026	} Approximately \$4.5 billion for 5 years*
2009	1041	
<u>2010</u>	<u>1141</u>	
7 years	\$6000	

\*It is reasonable to assume that, for 10 years, the estimate may have been \$9 billion.

**Figure D-1. NETCENTS Internal Ceiling Estimate**

**Actual Ceiling Used for NETCENTS.** According to NETCENTS program documentation, the contract ceiling was changed several times and multiple ceiling proposals were developed. Figure D-2 describes the sequence of events.

<b>Date</b>	<b>Document</b>	<b>Contract Period of Performance (in years)</b>	<b>Ceiling (in billions)</b>
12/12/2003	Draft request for proposal 1	10	\$20
12/18/2003	Small business coordination record	10	20
12/18/2003	Secretary of the Air Force for Acquisition memorandum to the Under Secretary of Defense for Acquisition, Technology, and Logistics	10	9
1/13/2004	Draft request for proposal 2	5	10
2/25/2004	Draft request for proposal 3	5	10
4/1/2004	Draft request for proposal 4	5	9

**Figure D-2. NETCENTS Ceiling Proposals**

According to program officials, the former Program Executive Officer for Combat and Mission Support Services directed program officials to use a 10-year, \$20 billion ceiling. No evidence or criteria could be provided to show what methodology was used to make this ceiling estimate. The 10-year, \$20 billion ceiling appeared in the first draft NETCENTS request for proposal, dated December 12, 2003.

Despite the \$20 billion estimate directed by the former Program Executive Officer, the Assistant Secretary of the Air Force for Acquisition wrote a memorandum to the Under Secretary of Defense for Acquisition, Technology, and Logistics on December 18, 2003, stating that the NETCENTS acquisition would proceed over 10 years at \$9 billion. However, the fourth draft NETCENTS request for proposal, dated April 4, 2004, stated that the contract was for 5 years with a \$9 billion ceiling. Program officials could not provide documentation showing how they derived either \$9 billion ceiling. Therefore, the \$9 billion ceiling for the NETCENTS contract may not have been developed using proper methodology. Based on the internal ceiling estimate developed by NETCENTS program officials (which was not used), the NETCENTS 5-year contract ceiling price was overstated by approximately \$4.5 billion (see Figures D-1 and D-2).

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## **Appendix E. Report Distribution**

### **Office of the Secretary of Defense**

Under Secretary of Defense for Acquisition, Technology, and Logistics  
Under Secretary of Defense (Comptroller)/Chief Financial Officer  
    Deputy Chief Financial Officer  
    Deputy Comptroller (Program/Budget)  
Assistant Secretary of Defense (Networks and Information Integration/DoD Chief  
    Information Officer)  
Director, Program Analysis and Evaluation  
Director, Administration and Management

### **Joint Staff**

Vice Director, Joint Chiefs of Staff

### **Department of the Army**

Auditor General, Department of the Army

### **Department of the Navy**

Auditor General, Department of the Navy

### **Department of the Air Force**

Assistant Secretary of the Air Force (Financial Management and Comptroller)  
Auditor General, Department of the Air Force

### **Other Defense Organizations**

Director, National Security Agency

### **Non-Defense Federal Organization**

Administrator, Small Business Administration

### **Congressional Committees and Subcommittees, Chairman and     Ranking Minority Member**

Senate Committee on Appropriations  
Senate Subcommittee on Defense, Committee on Appropriations

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Senate Committee on Armed Services  
Senate Committee on Homeland Security and Governmental Affairs  
Senate Committee on Small Business and Entrepreneurship  
House Committee on Appropriations  
House Subcommittee on Defense, Committee on Appropriations  
House Committee on Armed Services  
House Committee on Oversight and Government Reform  
House Subcommittee on Government Management, Organization, and Procurement,  
Committee on Oversight and Government Reform  
House Subcommittee on National Security and Foreign Affairs,  
Committee on Oversight and Government Reform  
House Committee on Small Business

# Department of the Air Force Comments



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC



OFFICE OF THE ASSISTANT SECRETARY

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDITING  
OFFICE OF THE INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE

FROM: SAF/AQC  
1060 Air Force Pentagon  
Washington, DC 20330-1060

SUBJECT: DoDIG Draft Audit Report, Air Force Network-Centric Solutions Contract,  
(Project No. D2006AS-0211)

This is in reply to your memorandum requesting the Assistant Secretary of the Air Force (Financial Management and Comptroller) to provide Air Force comments on subject report. The following is provided on each finding and recommendation described in subject draft report:

**Finding A: NETCENTS Contracts**

A1. Contract Consistency: The Air Force Concur.

**Corrective Action Taken** (Completion Date: 21 Mar 2007):

Recommendation A.1 and A.2: With contract modifications P00009 - P00011, the NETCENTS PMO has corrected all inconsistencies identified in Appendix C. There are a few clauses that vary by contract such as FAR 52.215-17, "Waiver of Facilities Capital Cost of Money", which the contractors had the right to waive in their proposals. The NETCENTS ordering guide was also updated to address information assurance. Additionally, HQ 754 ELSG/ES issued a memorandum dated 2 Oct 06 making clear the expectation that Contracting Officers and program officials will comply with all applicable security provisions.

A2. Internal and External Contract Reviews: The Air Force Concur.

**Corrective Action Taken** (Completion Date: 21 Mar 2007)

a. Internal Contract Review Response: Please see the comments added in Table 2, which directly correlate with Table 1. The omissions were not intentional and the program office has moved quickly to correct the omissions and mitigate any potential risk to the maximum extent possible by highlighting these errors to our customers via e-mail notification. We have also implemented a quarterly clause review process through our Policy office that will send out e-mail notifications of all clause changes/additions.

SAF/XCI, as part of the Governance and Oversight process has addressed Architectural and Engineering standards, to include Information Assurance requirements. Information Assurance standards are addressed in the DISR Online for which our primes are obligated. For example, ISO/IEC 15408 standard for Evaluation Criteria for IT Security, specifies the Common Criteria, which is the evaluation mandated by NSTISSP #11 for all COTS products used in national security systems, and is specifically referenced in the basic NETCENTS contract. There are other references that also correlate to the FIPS 140-2 Standards for data encryption, Government firewall protection, etc., which is also called out in the basic NETCENTS contract, under PWS paragraph 4.2. Information Assurance controls are also in place at each installation which has minimized overall risk due to the contractual clauses being omitted. The Program Office has also agreed to implement a standard positive affirmation process in RFPs whereby the contractors will be required to respond in their proposals that the solutions being proposed (and to be provided upon award) do comply with all contractual standards and Information Assurance requirements. In addition, all future acquisitions management will require that Information Assurance requirements are addressed and included in any resulting contracts.

b. External Contract Review Response: The Program office defers response to ASD (NI)/CIO.

**DRAFT REPORT**

**Table 1. NETCENTS IA and Contracting Omissions**

IA		
Missing Policy/Clause	Description of Requirement	Effect of Omitting Policy/Clause
"Continuation of Essential DoD Contractor Services During Crises" DFARS <sup>4</sup> 207.105(b)(19)(c), DoD Instruction 3020.37	This clause must be included to identify which services have been declared so essential that they must continue during a crisis situation outside the United States.	DoD may not be capable of supporting these systems necessary to contain and manage threats.
"Disclosure of Ownership or Control by a Foreign Government" DFARS 252.209-7002	This clause provides contractor disclosure of any interest a foreign government has in the contractor when that interest constitutes control by a foreign government. In addition, no contract under a national security program may be awarded to an entity controlled by a foreign government if that entity requires access to prescribed information to perform the contract.	Contractors owned by a foreign government could have access to sensitive information, cause substantial harm to U.S. interests and national security, and reveal defense capabilities and weaknesses.
"Protection Against Compromising Emanations" <sup>5</sup> DFARS 252.239-7000, DFARS 239.7103	This clause must be used in solicitations and contracts involving information technology that requires protection against compromising emanations.	DoD systems may not be protected against compromising emanations.
"Personal Identity Verification of Contractor Personnel" FAR 52.204-9, FAR 4.1301	This clause must be placed in solicitations and contracts when contract performance requires contractors to have physical access to a federally controlled facility or access to a Federal information system.	The physical security of federally controlled facilities and Federal information may not be maintained.
"Contractor Information Assurance Certifications" DoD Directive 8570.1, DoD Manual 8570.01-M	Existing contracts must be modified to specify certification requirements.	Certification requirements may not be communicated at the contract level so that contractors can train and provide proper personnel.
Contracting		
"Cancellation Under Multiyear Contracts" FAR Clause 52.217-2, FAR Part 17.109(a)	This clause must be placed in solicitations and contracts when a multiyear contract is contemplated.	NETCENTS program officials may not be in a position to cancel the contract before the date of expiration.

<sup>4</sup>Defense Federal Acquisition Regulation Supplement.

<sup>5</sup>Compromising emanations are unintentional intelligence-bearing signals, which, if intercepted and analyzed, disclose the national security information transmitted, received, handled, or otherwise processed by any information-processing equipment.

Revised

Table 2: Detailed response to Table 1:

Finding	PMO Response
<b>IA</b>	
<p>"Continuation of Essential DoD Contractor Services During Crises" DFARS 207.105(b)(19)(c), DoD Instruction 3020.37</p>	<p>P00009 added H113, "CONTINUATION OF ESSENTIAL DoD CONTRACTOR SERVICES DURING CRISES" to the NETCENTS contracts in Oct 2006. In addition, AFFARS clause 5352.237-9001 has been added to the NETCENTS contract via P00011. We did a review of task orders issued that identified Mission Essential contractors and found this clause had been incorporated at the task order level. (samples include FA8771-04-D-0002 orders 0009, 0016, 0026, 6G02, SC03, TN02; FA8771-04-D-0005, orders 5Q02, 6U01, 6U02, and SX02)</p>
<p>"Disclosure of Ownership or Control by a Foreign Government" DFARS 252.209-7002</p>	<p>DFARS 252.209-7002 is a provision and is prescribed to be included in solicitations. The provision was included in the RFP, as prescribed, in Section K, page 10 of 16, Representations, Certifications and Other Statement of Offerors.</p>
<p>"Protection Against Compromising Emanations" DFARS 252.239-7000, DFARS 239.7103</p>	<p>P00009 added DFARS 252.239-7000 to the NETCENTS contracts in Oct 2006.</p>
<p>"Personal Identity Verification of Contractor Personnel" FAR 52.204-9, FAR 4.1301</p>	<p>FAR clause 52.204-9 did not exist until FAC 5-07 issued 2 Feb 2006 so this one was not in the original contracts. It was added to the NETCENTS contracts in P00011 signed on 21 Mar 2007.</p>
<p>"Contractor Information Assurance Certifications" DoD Directive 8570.1, DoD Manual 8570.01-M</p>	<p>H clause H114, "Contractor Information Assurance Training, Certification and Workforce Management" was added to the NETCENTS contracts in P00011 signed on 21 Mar 2007.</p>
<p><b>Contracting</b></p>	
<p>"Cancellation Under Multiyear Contracts" FAR Clause 52.217-2, FAR Part 17.109(a)</p>	<p>IAW FAR definition of a multiyear contract, NETCENTS is a multiple year contract but not a multiyear contract as there are no funds or known requirements at the contract level. All requirements are issued via orders. Therefore, the clause cited is not applicable to the NETCENTS contract.</p>

Revised

**Finding B: Small Business Procedures**

**B1. NETCENTS Selection of the NAICS Code: The Air Force Non-Concurs with finding.**

Response: The NAICS code used for the NETCENTS acquisition was suggested by the Small Business representative at ESC to maximize participation of small businesses in the NETCENTS contract. We had many positive responses and affirmation that the small business community indeed believed the NAICS code selected was appropriate and no appeals to the SBA's Office of Hearings and Appeals were made to contest the Contracting Officer's determination of the NAICS code designation nor the applicable size standard. The SBA, SAF/SB and ESC/SB agreed with the Contracting Officers determination.

In addition, this was a topic that was given much attention during the Industry Day briefings as well as at the Acquisition Strategy Panel. The intent was to allow as much small business participation as possible.

The basis of this NAICS is described below:

- The standard for determining the appropriate NAICS code is set forth in 13 Code of Federal Regulations (CFR) 121.402(b), as implemented by FAR 19.303.
- The scope of work of NETCENTS was to provide Air Force, Department of Defense and other Federal Agencies a primary source of networking equipment/product supply and a means of system engineering, installation, integration, operations, and maintenance for a family of Department of Defense (DoD) adopted commercially standardized networking solutions that are interoperable with Air Force, Joint, and DoD Standardized Networking Technical Architectures. The NETCENTS contract will include Network-Centric Information Technology, Networking, Telephony and Security (NCITNTS) Voice, Video and Data Communications to include (but not limited to) Commercial-off-the-Shelf (COTS) products, system solutions and systems hardware and software to satisfy the requirements for interoperability, compatibility, and resource sharing of both Government Furnished Equipment (GFE) and Contractor Furnished Equipment (CFE), supporting the Air Force's Global Information Grid (GIG) architecture.
- In regards to the CFR admonition to select "the NAICS code which best describes the principle purpose of the product or service being acquired" and "which would best serve the purposes of the Small Business Act," we find that the principle purpose of the contract is for the contractor to engineer technical solutions to the Government's communication requirements, acquire the equipment and materials, and then install and test these wired communication systems. In this regard, NAICS 517110 (Wired Telecommunication Carriers) is appropriate.
- As part of the Contracting Officer's assessment in determining the correct NAICS code for the NETCENTS contract, the ESC Small Business office provided a "SBA Notice," issued in July 1989, which subsequently expired in February 1990, but provided guidance as to recognizing, in part, that:

... [I]telecommunication services contracts frequently comprise many disciplines classified in various SIC codes that are related to the technologies that have been developed by firms typically classified in SIC

4813 [now 2002 NAICS 517110, used in the NETCENTS]. Such contracts have included in the scope of work consulting on alternative telecommunications systems, identifying and providing telecommunication equipment and services (which would include but not [be (*sic*)] limited to equipment upgrade and replacement and installing fiber, developing or modifying communications software, hardware and software operations and maintenance, and other related activities. When a combination of these services is included in the statement of work evidencing that the intent of the procurement is to integrate and or acquire a telecommunication system, SIC 4813 [2002 NAICS 517110, as the successor NAICS code] is appropriate.

NETCENTS is just such a combination of work as envisioned by the SBA's Notice and as a result, reliance by the Contracting Officer was placed upon the recommendations by the ESC Small Business office and the SBA's representatives to ensure the code that "best serves the purposes of the Small Business Act" was chosen.

- Based on the above information, the program office and particularly, the Contracting Officer, believed at the time of RFP, source selection, and contract award that the NAICS 517110 code was appropriate for the NETCENTS acquisition and still believe that as being true today. Furthermore, as a result of this DoDIG Draft Audit Report, the determination that NAICS 517110 was the appropriate code designation has been re-affirmed by SAF/SB as being the appropriate code for the NETCENTS program.
- In regards to the documentation the DoDIG reviewed for the ceiling amount of the contract and the percentage of work anticipated by program, we believe the document was one of the original estimates done early in the program, before the additional voice requirements were fully understood and added to the NETCENTS contract. This did not occur until after the Acquisition Strategy Panels (ASPs) for both NETCENTS and the Consolidated Voice Switching System (CoVSS) were briefed and reviewed; upon conclusion of both ASPs, AFPEO/CM made the decision to include the CoVSS work in the NETCENTS RFP and resultant contract awards. The NETCENTS contract went through many changes as time elapsed during the source selection and the ordering time period allowed was changed 10 years to 5 years. Thus, based on the initial estimates, the addition of numerous requirements and the change to the ordering period, the ceiling was established at \$9 Billion.

As such, the Air Force finds that the DoDIG Draft Audit Report assessment as to small business dollars lost is inaccurate, especially in light of the fact that small businesses have garnered over 50% of all task orders issued, thus far.

**B2. Bundling:** The Air Force concurs with the intent of the finding in light of the current environment and the more recent decisions by GAO, however we non-concur with the finding in light of the environment when NETCENTS was competed.

Response: The SAF/SB Small Business Office has been very vigilant regarding bundling of small business requirements. However, in the case of NETCENTS, it is not clear that bundling has occurred. The acquisition was not structured in a way that small businesses could not compete. The primary criteria listed in the FAR states that bundled contracts are not suitable for small business award. Unsuitability can be due to the diversity, size or specialized nature of the elements of the performance specified. Four awards were in fact made to small businesses. Despite the aggregate dollar value of the NETCENTS

program, the small businesses who received awards have been able to compete successfully, and have won far more orders in competition against all NETCENTS awardees, than the awards that were reserved in the acquisition strategy. It is not clear how much was awarded in terms of dollars in the overall IT market space to small businesses prior to the inception of NETCENTS. This is due to inaccuracies and uncertainties in the reporting of IT awards throughout the DoD. No dollar baseline for small business IT awards was established prior to the award of NETCENTS contracts. Without such an analysis, it's hard to argue that small businesses are worse off or better off under NETCENTS or whether true bundling occurred.

With the awarding of approximately 50% of all dollars to the four small businesses and with the healthy subcontracting goals which have also been exceeded, it is difficult to conclude that bundling has occurred, since these contracts are clearly suitable for small business.

It is likely that had a different NAICS been selected resulting in a smaller size standard, this would probably have resulted in fewer dollars counted as awarded to small business which would have made the bundling concern stronger. However, as a result of the larger "small business" participation, larger projects with more dollars have been awarded to small businesses.

The GAO has looked at a very similar multiple award IDIQ contract (Phoenix Scientific Corp, B-286817, Feb 22 2001). The GAO concluded that a multiple award IDIQ that includes small businesses, where they can successfully compete with large businesses, is not unsuitable for small business. Additionally, the GAO determined such an arrangement was not "bundling" for purposes of the Small Business Act, even if some small business sales are displaced and the requirements would be unsuitable for some sub-set of smaller small businesses. The recent criticisms of contract reservations strategies (for their apparent violation of CICA), however, contained in the report of the advisory panel chartered pursuant to Section 1423 of the Services Acquisition Reform Act of 2003 (SAR panel) creates uncertainties about whether GAO would uphold the Phoenix decision.

By FAR 2.1 definition of bundling, it occurs when two or more requirements for supplies or services, previously provided or performed under separate contracts, are combined into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern. In the case of NETCENTS, work that may previously have been performed by large businesses is now available for award to a mix of large and small businesses thereby offering small businesses a chance to garner business that they were not previously able to do. Given the sensitivity of bundling and the Administration's policy to increase small business participation at the time of the NETCENTS source selection, the 754 ELSG undertook considerable efforts to coordinate and update the NETCENTS acquisition strategy as necessary through Air Force Headquarters. The offices that participated and approved the acquisition strategy included SAF/AQ, SAF/GC, SAF/SB, AFPEO/CM, OSD (NII/CIO) and OSD (AT&L). Based on the current environment, the AF understands the intent of the finding and will fully research

and comply with appropriate guidance on all future acquisitions. At the time NETCENTS was awarded, the environment and interpretations on bundling supported the conclusion that NETCENTS was not considered bundling.

Despite the concerns that currently exist, the Air Force is pleased to report that our small business partners have excelled on the NETCENTS contract without reliance on the reservation provision. We have received many positive remarks from our small business partners who share in the NETCENTS work as team members with our prime contractors. Our small businesses are not only very capable of performing the work on NETCENTS; they have in fact been awarded over 50% of all dollars obligated to date, validating the approved acquisition strategy.

**B3. Small Business Set-Asides:** The Air Force concurs with the intent of the finding in light of the current environment and the more recent decisions by GAO, however we non-concur with the finding in light of the environment when NETCENTS was competed.

Response: We are committed to doing everything we can to support Air Force small business goals. Virtually each acquisition strategy panel for a multiple award contract, like these contracts, is required to address how they support agency small business goals.

The NETCENTS acquisition strategy was approved at the Secretariat level, based on the recommendations of SAF/AQ, SAF/GC, AFPEO/CM and SAF/SB as well as OSD (NI/CIO) and OSD (AT&L), to include the reservation for a 20% small business goal of contract dollars awarded. At the time of the audit, the four small business concerns involved with NETCENTS had garnered over \$885 Million, more than 50% of the contract dollars awarded. They have far exceeded the program office's expectations and we are pleased with the results.

We acknowledge that the evolving requirements for fair opportunity competitions and the uncertainty and legal scrutiny associated with the reservation of contract awards under multiple award contracts indicates there is more work to be done as to how best implement future acquisitions to meet the Air Force and DoD small business goals.

As stated previously, the reservation of contract awards on multiple-award contracts has recently become the subject of considerable legal scrutiny. The Competition in Contracting Act (CICA) requires full and open competition in federal contracting unless exempted under specific statutory authority. If contract reservations are not specifically authorized by statute, they are presumably ineligible for a CICA exemption and thereby subject to the requirement for full and open competition. We believe that although there is no commonly recognized authority for contract reservations, the Small Business Act does appear to contemplate the use of some alternative small business preference strategies. For instance, Section 15(a) of the Small Business Act states that:

To effectuate the purposes of this Act, small business concerns within the meaning of this Act shall receive any award or contract or any part thereof, and be awarded any contract for the sale of Government property, as to which it is determined by the [Small Business] Administration and the contracting procurement or disposal agency... (3) to be in the interest of assuring that a fair

proportion of the total purchases and contracts for property and services for the Government in each industry category are placed with small-business concerns, or (4) to be in the interest of assuring that a fair proportion of the total sales of Government property be made to small-business concerns... These determinations may be made for individual awards or contracts or for classes of awards or contracts.

As was the case with bundling, the 754 ELSG undertook considerable efforts to coordinate the NETCENTS acquisition strategy, to include the development of the Special Contract Clause, H107, that set the reservation for small business concerns within the RFP and the resulting contracts.

We are aware of the GAO decisions that do require that a Fair Opportunity be provided for all awardees of a multiple award contract to compete for all orders. Current guidance is not clear on how those Fair Opportunity competition requirements can be reconciled with the small business award targets set for these contracts in their Acquisition Strategy. In the case of NETCENTS, the RFP reservation of a small business set aside as a specific percentage by dollar value for competition limited to small business became an effective minimum requirement in the RFP and small business contracts that would be an exception to the fair opportunity competition requirement. To that extent, the Air Force believes the small business goal that was approved in the Acquisition Strategy was a way to help small businesses excel using NETCENTS. However, the overwhelming success of small business awardees to compete for NETCENTS task orders at more than 50% of the total dollar values thus far has far exceeded the SB reservation of 20%. Given this huge success rate for our small business companies, we've not enforced the set aside provision and see no reason to do so in future awards. Thus, our current experience and process are consistent with your expectations. All eight offerors have a fair opportunity to compete with each task. And we commit to continue this process through the remainder of the contract and its option periods.

**Recommendations:**

**Recommendation B.1: The Air Force Non-concurs.**

**Recommendation B.1:** We do not concur with the recommendation that the 754 ELSG should not exercise the last option year on the NETCENTS contract, because our current processes already reflect your recommended corrections.

The Air Force commits to review the exercise of each option consistent with FAR Part 17.207. The Contracting Officer will base his/her decision on all factors relating exercising an option to include ensuring a continued commitment to fair opportunity to compete for all eight primes at task order level.

**Recommendation B.1.a & B.1.b: The Air Force Non-concurs.**

Since the NETCENTS contract has already been awarded, to separate the contract into ordering categories is not feasible. Doing so would be in violation of the approved Acquisition Strategy. The 754<sup>th</sup> will consider this in the NETCENTS follow-on strategy.

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Recommendation B.1.c: The Air Force Non-concurs.

As the contracts have already been awarded based on the premise that a bundling justification memorandum was not required, to do a memorandum at this point would not add value to the current contracts. However, we will reassess this issue for our future NETCENTS acquisition.

Recommendation B.2: The Air Force concurs.

**Corrective Action: (Completion Date: April 07)**

To be implemented in new contract awards, the 754<sup>th</sup> will implement the standardized review process, to assure orders comply with all FAR and small business regulations. We believe the approved strategy is in compliance with all regulations and policies dealing with small business requirements.

Recommendation B.3: The Air Force concurs with the intent.

**Corrective Action: (Completion Date: NLT 30 Sep 07)**

Based on the above discussion, the Air Force believes that it has been very successful in ensuring that small businesses and large businesses have had fair opportunities to compete under the NETCENTS contracts. The overwhelming success of small business concerns to compete for all NETCENTS task orders at more than 50% of the total dollar values to date has far exceeded the goals and as such, the NETCENTS contract, as currently being executed today, provides a fair opportunity for task orders to all contract holders.

To unilaterally remove the small business set-aside clause on NETCENTS at this point would unnecessarily violate our acquisition strategy and part of our negotiated small business strategy that was approved by the Source Selection Authority, Source Selection Advisory Council, the Small Business Administration, SAF/SB, and other Headquarters offices, such as SAE/AQ and SAF/GC. Furthermore, it would also violate the terms and conditions of the NETCENTS contracts for which all task orders have been based upon since contract award and potentially, negatively the prime contractors on this program.

**Finding C: Decentralized Task Order Oversight**

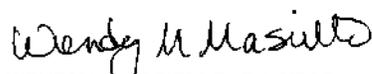
Recommendation C1. The Air Force Concurs

**Corrective Action: (Completion date: April 2007)**

The 754 ELSG/ES has developed procedures for our NETCENTS PMO to do oversight reviews on random samples of decentralized orders IAW AFFARS 5316.505-90(b). This review process will focus on whether the decentralized orders are in scope of the contract and whether they follow applicable DoD and Federal policies. This is designated as a special interest item and will include assessment of compliance with security provisions and the ESC-PKX Contract File Content Checklist dated July 2005. The 754 ELSG security manager will serve as the individual responsible for security and information assurance reviews. He will be assisted by our technical and contracting teams, as needed. The process includes Task Order Reviews for FY07 through end of the NETCENTS contract – 100% of RFP awards. Review will consist of pre-screening and incorporating summary order information into a pre-established tracking methodology whereby scope,

task order structure and conformance to contract terms and conditions can be reviewed and documented.

Please feel free to contact my action officer, Lt Col Paul Bugenske, at (703) 696-1095, if you require further information related to this matter. I appreciate your interest in our response to this draft report and look forward to receiving the final report.



WENDY M. MASIELLO, Col, USAF  
Associate Deputy Assistant  
Secretary (Contracting)  
Assistant Secretary (Acquisition)

## **Team Members**

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# Inspector General Department of Defense

